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Attorneys for STATE OF ARIZONA

SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

2012 JAN -6 PM 4: 17 ✓

SANDRA K MARKI, CLERK
BY: 

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA,

Plaintiff,

vs.

STEVEN CARROLL DEMOCKER,

Defendant.

CAUSE NO. P1300CR201001325

MOTION PURSUANT TO RULE 15.3
FOR DEPOSITION OF WITNESS
JAMES DEMOCKER AND ORDER
FOR EXPEDITED HEARING

Assigned to Hon. Gary Donahoe
Division I

EXPEDITED HEARING REQUESTED

The State of Arizona, by and through Sheila Sullivan Polk, Yavapai County Attorney respectfully moves this court pursuant to Arizona Rules of Criminal Procedure, Rule 15.3 to order the deposition of James DeMocker ("JD") and to compel him to comply with a subpoena duces tecum. This motion is supported by the following:

MEMORANDUM OF POINTS AND AUTHORITIES

Rule 15.3(a) (2) of the Rules of Criminal Procedure permits the deposition of a witness where a party "shows that the person's testimony is material to the case ... that the person was not a witness at the preliminary hearing ... and that the person will not cooperate in granting a personal interview." This Rule was presented in context of the issue before this Court.

James DeMocker is a material witness

In August 2008 JD paid the initial retainer for probate attorney Chris Kottke and assisted Katie DeMocker in the Virginia Carol Kennedy probate. He has personal knowledge of material events in the administration of the Kennedy Probate. In August/September, 2008 JD evicted

1 James Knapp from the Bridle Path guest house. He is one of a few civilian witnesses who had
2 personal contact with Mr. Knapp before his death. After the arrest of Steven DeMocker, JD was
3 instrumental in Defendant's financial decisions. JD directed payment of bills, the arrangement of
4 loans and he has personal knowledge of Defendant's plans to acquire the Hartford Insurance
5 proceeds, including instructions in December, 2008 to pay the insurance premiums. JD knew in
6 February, 2009 that a "flood of money" (Defendant's words) was imminent. JD tells the
7 Defendant on March 30, 2009 that he "knows the big picture". It was JD's suggestion to
8 Defendant to keep finances "opaque". Defendant discussed with JD ways to pressure Katie into
9 releasing the \$750,000.00 to be used for his attorney fees. JD created and distributed letters,
10 emails and detailed spread sheets tracking the insurance money from the trust to the attorneys.

Witness is uncooperative

11 On September 7, 2011 the State delivered to JD a subpoena duces tecum via Fed Ex with
12 a return date of September 14, 2011. Shortly thereafter JD contacted the undersigned for an
13 extension of time to respond to the subpoena in order to hire an attorney. JD promised not to
14 destroy, alter or amend any of the subpoenaed records. The request for an extension was granted
15 without a drop dead date. After several weeks, JD retained Flagstaff, AZ attorney Bruce Griffen.

16 To date after numerous phone calls and emails with Mr. Griffen, the State has been unable
17 to receive JD's records or to schedule his interview. Considering the numerous attempts over 5
18 months, it is reasonable to conclude that JD is uncooperative and unwilling without a court order
19 to produce his records or to submit to an interview.

CONCLUSION

20 The State moves this court for an Order compelling James DeMocker to produce the
21 records and documents identified in exhibit 1 at least 10 days before the date for his deposition.
22 The deposition must occur before the end of January, 2012 in case a motion is required.

RESPECTFULLY SUBMITTED this 6th day of January, 2012.

Sheila Sullivan Polk
YAVAPAI COUNTY ATTORNEY

By: 

Jeffrey Paupore
Deputy County Attorney

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1 **COPY** of the foregoing **Emailed** this
6th day of January, 2012, to:

2 Honorable Gary Donahoe

3 Division 1

Yavapai County Superior Court

4 Via email to: gdonahoe1@courts.az.gov

5 Division 1

6 Via email to Cheryl Wagster: CWagster@courts.az.gov

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8 **STATE OF ARIZONA,**

9 Plaintiff,

10 vs.

11 **STEVEN CARROLL DEMOCKER,**

12 Defendant.

CAUSE NO. P1300CR201001325

**ORDER FOR EXPEDITED HEARING:
RE: RULE 15.3 FOR DEPOSITION OF
WITNESS JAMES DEMOCKER**

Assigned to Hon. Gary Donahoe
Division I

13 Based upon the State's motion for expedited hearing on its motion for the deposition of
14 James DeMocker pursuant to Rule 15.3 and good cause appearing therein,

15 **IT IS ORDERED** setting a hearing for the _____ day of _____, 2012 at _____
16 am/pm. One half hour has been allotted for oral argument.

17
18
19 Done this day _____ of _____, 2012 in open court.

20
21 _____
22 Judge Gary Donahoe
23 Superior Court Judge
24
25
26